

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO**

EVIN KING,)	
)	
Plaintiff,)	
)	Case No. 18-cv-02353
v.)	
)	
CLEVELAND POLICE OFFICERS)	
ROBERT MATUSZNY, GREGORY KUNZ,)	
MICHAEL O'MALLEY, THOMAS)	
MILLER, TIMOTHY ZBIKOWSKI,)	
DENNIS GUNSCH, CITY OF)	
CLEVELAND, a municipal corporation,)	
ROBERT CHALLENGER, KAY MAY, and)	
ELIZABETH K. BALRAJ, Cuyahoga County)	
Coroner sued in her individual and official)	
capacities, and CUYAHOGA COUNTY,)	
)	
Defendants.)	
)	

**REPORT OF PARTIES' PLANNING MEETING
UNDER FED. R. CIV. P. 26(F) AND LR 16.3(B)(3)**

1. Pursuant to Fed. R. Civ. P. 26(f) and LR 16.3(b)(3), a meeting was held on January 24, 2019, and was attended by:

Danielle Hamilton, Counsel for Plaintiff; Kenneth A. Calderone, John R. Chlysta, and Anne M. Markowski, Counsel for Attorneys for Defendants Robert Matuszny, Gregory Kunz, Michael O'Malley, Thomas Miller, Timothy Zbikowski, and Dennis Gunsch; William M. Menzalora and Janeane R. Cappara, Counsel for Defendant City of Cleveland; and Brendan D. Healy, Counsel for Defendants Cuyahoga County, Kay May, and Elizabeth K. Balraj.

2. The parties will exchange Rule 26(a)(1) initial disclosures by February 1, 2019. The parties have not commenced discovery.

3. The parties recommend the following track: Complex. The parties anticipate that more than ten depositions will be taken in the case.

4. This case is suitable for one or more of the following Alternative Dispute Resolution (ADR) mechanisms: The parties do not agree to ADR at this time, but may consider it after some initial discovery.

5. The parties do not consent to the jurisdiction of the United States Magistrate Judge pursuant to 28 U.S.C. § 636(c).

6. The parties agree that this case does involve electronic discovery.

7. Recommended Discovery Plan:

a. Describe the subjects on which discovery is to be sought, the nature and extent of discovery and any potential problems: The parties intend to conduct discovery on all claims and defenses in this case, including but not limited to: the circumstances of the police investigation and prosecution of Plaintiff; whether one or more of the Defendants are liable for one or more of the claims alleged in the Complaint; whether the Defendants City of Cleveland or Cuyahoga County are liable to Plaintiff under *Monell v. Dep't of Social Servs.*, 436 U.S. 658 (1978); Plaintiff's damages; and the facts and circumstances bearing on any affirmative defenses asserted by Defendants. The parties intend to conduct oral and written discovery.

b. Describe anticipated e-discovery issues (i.e., what ESI is available and where it resides; ease/difficulty and cost of producing information; schedule and format of production; preservation of information; agreements about privilege or work-production protection, etc.): The parties do not anticipate any e-discovery issues at this time.

c. The parties agree to the following expert discovery cut-off dates:

Plaintiff's expert disclosures due: November 15, 2019

Plaintiff's expert depositions by: December 16, 2019

Defendants' expert disclosures due: January 16, 2020

Defendants' expert depositions by: February 17, 2020

Rebuttal expert report(s), if any, due: March 17, 2020

Rebuttal expert deposition(s), if any, by: April 17, 2020

d. Discovery Deadlines:

i. Liability: October 31, 2019

ii. Damages: October 31, 2019

8. Recommended dispositive motion date: February 14, 2020. Responses to any dispositive motion due 30 days following the filing of the Motion with Reply Briefs due 14 days following the filing of a Response.

9. Recommended cut-off for amending the pleadings and/or adding additional parties: April 15, 2019

10. Recommended date for status hearing: July 15, 2019

11. Other matters for the attention of the Court:

a. On December 17, 2018, County Defendants filed a motion to dismiss for failure to state a claim. Plaintiff responded in opposition to the motion on January 16, 2019. County Defendants' reply brief is due February 13, 2019.

b. The family of deceased defendant Robert Matuszny identified Richard Matuszny as the representative of the Estate of Robert Matuszny. The Matuszny family is in the process of opening an estate on behalf of Defendant Matuszny. Counsel for Plaintiff and counsel for Defendant Matuszny are in the process of preparing a stipulation regarding a representative for the Estate.

- c. On January 29, 2019, the Court denied Plaintiff's motion to substitute a party and appoint a special administrator for deceased Defendant Robert Challenger. Plaintiff requests the opportunity to address the issue at the Case Management Conference.

Respectfully submitted,

Attorney for Plaintiff:

/s/ Danielle Hamilton

Attorney for Defendants Matuszny, Kunz, O'Malley,
Miller, Zbikowski, and Gunsch:

/s/ Kenneth A. Calderone

Attorney for Defendant City of Cleveland:

/s/ William M. Menzalora

Attorney for Defendants Cuyahoga County; May, and
Balraj:

/s/ Brendan D. Healy

CERTIFICATE OF SERVICE

I, Danielle Hamilton, certify that the foregoing motion was sent via CM/ECF to all counsel of record.

/s/ Danielle Hamilton
One of Plaintiff's Attorneys